

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY _____ D.C.
05 AUG 17 AM 9:13
THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN JACKSON

CATHY D. CASEY,

Plaintiff,

VS.

J.R. WAUFORD & COMPANY
CONSULTING ENGINEERS, INC.,

Defendant.

No. 05-1043-T-An

ORDER OF DISMISSAL

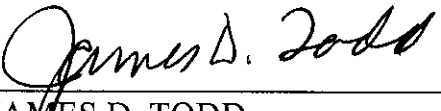
On July 29, 2005, the court entered an order requiring Plaintiff to show cause why this action should not be dismissed for failure to serve Defendant with process. Plaintiff's counsel has responded to the order to show cause and asks that the action be dismissed without prejudice on the ground that Plaintiff's present whereabouts are unknown and her counsel seeks to preserve to her rights.


Fed. R. Civ. P. 41(a)(1) allows a plaintiff to voluntarily dismiss her case, without leave of court, "at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs" or by filing a stipulation of dismissal signed by all the parties. Otherwise, leave of court for a voluntary dismissal must be obtained "upon such terms and conditions as the court deems proper." Fed. R. Civ. P. 41(a)(2).

Defendant has not filed an answer. Consequently, Plaintiff is entitled to voluntarily

dismiss the action without prejudice. The clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE


DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 4 in case 1:05-CV-01043 was distributed by fax, mail, or direct printing on August 18, 2005 to the parties listed.

Bradley G. Kirk
CARTER STANFILL & KIRK
25 Natchez Trace Dr.
Lexington, TN 38351

Honorable James Todd
US DISTRICT COURT